

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Kelly Lewis Daniels, # 256138,	)	
	)	C/A No. 2:12-0123-MBS
Plaintiff,	)	
	)	
vs.	)	
	)	<b>OPINION AND ORDER</b>
Lieber C. Inst. Ann Shepperd, Captain;	)	
Lieber C. Inst. J. Kotae, Captain;	)	
Lieber C Inst. Albert Mack, Lt.;	)	
Lieber C. Inst. Travis Guest, Sgt;	)	
Lieber C. Inst. Ronald Wilkens, Cpl.;	)	
	)	
Defendants.	)	
_____	)	

Plaintiff Kelly Lewis Daniels is an inmate in custody of the South Carolina Department of Corrections who currently is housed at the Lieber Correctional Institution in Ridgeville, South Carolina. Plaintiff, proceeding pro se, filed a complaint on January 12, 2012, alleging that Defendants negligently lost his “legal box,” which contained all of Plaintiff’s legal documents, when Plaintiff was moved to a different cell. Plaintiff brings this action pursuant to 42 U.S.C. § 1983.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for a Report and Recommendation. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. §§ 1915 and 1915A and the Prison Litigation Reform Act of 1996. On January 26, 2012, the Magistrate Judge issued a Report and Recommendation in which she determined that Plaintiff had failed to state a cognizable § 1983 claim. In addition, the Magistrate Judge noted that Plaintiff has adequate post-deprivation remedies for the loss of his personal property. Accordingly, the Magistrate Judge recommended that Plaintiff’s complaint be dismissed, without prejudice. Plaintiff filed no objections to the Report and

Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). The court may accept, reject, or modify, in whole or in part, the Report and Recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The court adopts the Report and Recommendation and incorporates it herein by reference. Plaintiff’s complaint is dismissed, without prejudice.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
Chief United States District Judge

Columbia, South Carolina

February 22, 2011.

**NOTICE OF RIGHT TO APPEAL**

**Plaintiff is hereby notified of the right to appeal this order  
pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.**